

AMENDED IN SENATE APRIL 12, 2011

AMENDED IN SENATE MARCH 30, 2011

SENATE BILL

No. 469

Introduced by Senator Vargas

February 17, 2011

An act to add Section 65957.3 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 469, as amended, Vargas. Land use: development project review: superstores.

(1) The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 6 months from the date of certification of an environmental impact report or within 3 months from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.

This bill would in addition require a city, county, or city and county, including a charter city, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer, as defined, to ~~require~~ *cause* an economic impact report to be prepared, as specified, to be paid for by the project applicant, and that includes specified assessments and projections including, among other things, an assessment of the effect that the construction and operation of the proposed superstore retailer will have on retail operations and employment in the same market area. The bill would also require the governing body to provide an opportunity for public comment on the

economic impact report. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to promote
 2 economic development in all communities of the state and to
 3 address the impact on the state’s small businesses from the
 4 superstore retail model. Therefore, the Legislature finds and
 5 declares all of the following:

6 (a) It is in the interest of local governments to promote economic
 7 development in their jurisdictions.

8 (b) Land use decisions are frequently linked to fiscal policy
 9 because local governments receive a share of sales tax revenues
 10 generated within their borders. California cities thus often seek
 11 large sales tax revenue sources, such as superstores, without taking
 12 into account all of the external economic effects that superstores
 13 bring to communities.

14 (c) Transformations in the big box retail industry have altered
 15 retail business nationwide. The engine of this change is the retail
 16 format known as the superstore--a big box retail store that also
 17 contains the equivalent of a full-size grocery store, with the total
 18 floor space often three to four times as large as that of a
 19 conventional supermarket.

20 (d) As a result of the restructuring of retail business, particularly
 21 the grocery sector in California, the following effects may be seen:
 22 local grocers, who yield a greater community return on investment,
 23 are driven out of business; less community access to viable
 24 superstore alternatives; lower wages and benefits paid to grocery
 25 workers by superstore retailers; and a host of complex land use,
 26 traffic, and fiscal impacts.

27 (e) Superstores typically combine a large variety of discount
 28 general merchandise with full service grocery sales to the general

1 public under one roof, thereby generating more intense land use
2 and environmental impacts than other large-scale retailers and
3 wholesale membership clubs.

4 (f) Industry and academic studies indicate superstores rarely
5 add any retail services not currently provided within a community,
6 and the majority of sales growth at a superstore comes from a
7 direct shift of dollars from existing retailers within a community,
8 primarily from grocery stores.

9 (g) Land use decisions regarding superstores fall to city and
10 county governments, even if the impacts will be regional as well
11 as local.

12 (h) Currently, local governments that desire to perform due
13 diligence for their constituents by performing an economic analysis
14 are placed at a disadvantage because a neighboring city or county
15 may not perform an economic analysis. This a situation may result
16 in the shifting of sales tax and destruction of the business
17 community in a city or county that simply wants to study the
18 impacts of the development project before making a final approval.

19 SEC. 2. Section 65957.3 is added to the Government Code, to
20 read:

21 65957.3. (a) As used in this section, “superstore” means a
22 business establishment that exceeds 90,000 square feet of gross
23 floor area, sells a wide range of consumer goods, and devotes 10
24 percent of the sales floor area to the sale of items that are exempted
25 from the Sales and Use Tax Law pursuant to Section 6359 of the
26 Revenue and Taxation Code. “Superstore” shall include retail
27 establishments with multiple tenants, and the cumulative sum of
28 related or successive permits that may be part of a larger project,
29 including piecemeal additions to a building, so long as consumer
30 goods and nontaxable items are sold under the same roof with
31 shared checkout stands, entrances, and exits. This definition
32 excludes discount warehouses and discount retail stores that sell
33 more than half of their items in large quantities or bulk, and also
34 require shoppers to pay a membership or assessment fee.

35 (b) As used in this section, the term “market area” has the same
36 meaning as that term is defined in Section 53084.

37 (c) Prior to approving or disapproving a permit for the
38 construction or conversion of a superstore retailer, a city, county,
39 or city and county shall ~~require~~ *cause to be prepared* an economic
40 impact report.

- 1 ~~(1) The city, county, or city and county shall contract with a~~
2 ~~private consultant, other than the permit applicant, for the~~
3 ~~preparation of the economic impact report. The consultant shall~~
4 *(1) The city, county, or city and county may prepare the*
5 *economic impact report or contract with a private entity, other*
6 *than the permit applicant, or with another public agency for the*
7 *preparation of the report. The private entity or other public agency*
8 *shall be qualified by education, training, and experience to conduct*
9 *economic and fiscal impact analyses.*
- 10 (2) The applicant for the development project shall pay the city,
11 county, or city and county for the costs of preparing the economic
12 impact report.
- 13 (3) The economic impact report shall include, but is not limited
14 to, all of the following:
- 15 (A) An assessment of the extent to which the proposed
16 superstore retailer will capture a share of retail sales in the market
17 area.
- 18 (B) An assessment of how the construction and operation of the
19 proposed superstore will affect the supply and demand for retail
20 space in the market area.
- 21 (C) An assessment of how the construction and operation of the
22 proposed superstore will affect employment in the market area,
23 including all of the following:
- 24 (i) The number of persons employed in existing retail stores in
25 the market area.
- 26 (ii) An estimate of the number of people who will likely be
27 employed by the proposed superstore.
- 28 (iii) An analysis of whether the proposed superstore will result
29 in a net increase or decrease in employment in the market area.
- 30 (iv) The effect on wages and benefits of employees of other
31 retail businesses, and community income levels in the market area.
- 32 (D) A projection of the costs of public services and public
33 facilities resulting from the construction and operation of the
34 proposed superstore retailer and the incidence of those costs.
- 35 (E) A projection of the public revenues resulting from the
36 construction and operation of the proposed superstore retailer and
37 the incidence of those revenues.
- 38 (F) An assessment of the effect that the construction and
39 operation of the proposed superstore retailer will have on retail
40 operations, including grocery or retail shopping centers, in the

1 same market area, including the potential for blight resulting from
2 retail business closures and the nature of any businesses displaced.

3 (G) An assessment of the effect that the construction and
4 operation of the proposed superstore will have on the ability of
5 the city, county, or city and county to implement the goals
6 contained in its general plan, including, but not limited to, local
7 policies and standards that apply to land use patterns, traffic
8 circulation, affordable housing, natural resources, including water
9 supplies, open-space lands, noise problems, and safety risks.

10 (H) An assessment of the effect that the construction and
11 operation of the proposed superstore will have on average total
12 vehicle miles traveled by retail customers in the same market area.

13 (I) An assessment of the potential for long-term vacancy of the
14 property on which the superstore is proposed in the event that the
15 business vacates the premises, including any restrictions that exist
16 on the subsequent use of the property on which the superstore is
17 proposed to be located, including the provisions of any lease that,
18 in the event the owner or operator of the superstore vacates the
19 premises, would require the premises to remain vacant for a
20 significant amount of time.

21 (J) An assessment of whether the superstore would require the
22 demolition of housing or any other action or change that would
23 result in a decrease or negative impact on the creation of extremely
24 low, very low, low-, or moderate-income housing.

25 (K) An assessment of whether the superstore would result in
26 the destruction or demolition of park or other green space,
27 playgrounds, child care facilities, or community centers.

28 (L) An assessment of whether the superstore would result in
29 any other adverse or positive economic impacts or blight.

30 (M) An assessment of whether any measures are available that
31 may mitigate any materially adverse economic impacts identified
32 by the applicant.

33 (d) This section shall not preclude a city, county, or city and
34 county from conducting additional studies of the effects of the
35 construction and operation of a proposed superstore retailer.

36 (e) At any regularly scheduled meeting or meetings of the city,
37 county, or city and county governing body, after the completion
38 of the economic impact report required by subdivision (b), and 30
39 days prior to the issuance of any entitlement, including, but not
40 limited to, a building permit, a city, county, or city and county

1 shall provide the opportunity for public comment on the economic
2 impact report and its findings.

3 (f) (1) The Legislature finds that the construction and operation
4 of a superstore retailer has land use, environmental, economic,
5 fiscal, and social equity effects that extend beyond the boundaries
6 of the city, county, or city and county in which it is located.

7 (2) The Legislature finds that it is essential for the statewide
8 public health, safety, and welfare to require cities, counties, and
9 cities and counties to understand the potential spillover effects of
10 approving the construction and operation of superstore retailers.

11 (3) The Legislature further finds and declares that the review
12 and regulation of superstore retailers is a matter of statewide
13 concern and not merely a municipal affair, as that term is used in
14 Section 5 of Article XI of the California Constitution. Therefore,
15 this section shall apply to charter cities and to charter cities and
16 counties.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act, within the meaning of Section
22 17556 of the Government Code.